

# STATE OF NEW YORK

1741--A

Cal. No. 83

2021-2022 Regular Sessions

## IN ASSEMBLY

January 11, 2021

Introduced by M. of A. GOTTFRIED, ENGLEBRIGHT, COLTON, FAHY, SIMON, THIELE, DINOWITZ, McMAHON, OTIS, SEAWRIGHT, WEPRIN, DICKENS, STERN, GRIFFIN, GALEF, ABINANTI, MAGNARELLI, DARLING, ANDERSON, WOERNER, J. D. RIVERA, JACOBSON, L. ROSENTHAL, McDONALD, SOLAGES, PAULIN, SAYEGH, STECK, BURDICK, GUNTHER, MEEKS, GIBBS, WILLIAMS, JEAN-PIERRE, SILLITTI, FERNANDEZ, BURGOS, ZINERMAN, FORREST, ZEBROWSKI, PRETLOW, SCHMITT, NORRIS, CYMBROWITZ -- read once and referred to the Committee on Insurance -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the insurance law, in relation to calculating an insured individual's overall contribution to any out-of-pocket maximum or any cost-sharing requirement

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subsection (i) of section 3216 of the insurance law is  
2 amended by adding a new paragraph 37 to read as follows:

3 (37) Any policy that provides coverage for prescription drugs shall  
4 apply any third-party payments, financial assistance, discount, voucher  
5 or other price reduction instrument for out-of-pocket expenses made on  
6 behalf of an insured individual for the cost of prescription drugs to  
7 the insured's deductible, copayment, coinsurance, out-of-pocket maximum,  
8 or any other cost-sharing requirement when calculating such insured  
9 individual's overall contribution to any out-of-pocket maximum or any  
10 cost-sharing requirement. If under federal law, application of this  
11 requirement would result in health savings account ineligibility under  
12 26 USC 223, this requirement shall apply for health savings account-qua-  
13 lified high deductible health plans with respect to the deductible of  
14 such a plan after the enrollee has satisfied the minimum deductible  
15 under 26 USC 223, except for with respect to items or services that are  
16 preventive care pursuant to 26 USC 223(c)(2)(C), in which case the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 requirements of this paragraph shall apply regardless of whether the  
2 minimum deductible under 26 USC 223 has been satisfied.

3 § 2. Subsection (l) of section 3221 of the insurance law is amended by  
4 adding a new paragraph 21 to read as follows:

5 (21) Every group or blanket policy delivered or issued for delivery in  
6 this state that provides coverage for prescription drugs shall apply any  
7 third-party payments, financial assistance, discount, voucher or other  
8 price reduction instrument for out-of-pocket expenses made on behalf of  
9 an insured individual for the cost of prescription drugs to the  
10 insured's deductible, copayment, coinsurance, out-of-pocket maximum, or  
11 any other cost-sharing requirement when calculating such insured indi-  
12 vidual's overall contribution to any out-of-pocket maximum or any cost-  
13 sharing requirement. If under federal law, application of this require-  
14 ment would result in health savings account ineligibility under 26 USC  
15 223, this requirement shall apply for health savings account-qualified  
16 high deductible health plans with respect to the deductible of such a  
17 plan after the enrollee has satisfied the minimum deductible under 26  
18 USC 223, except for with respect to items or services that are preven-  
19 tive care pursuant to 26 USC 223(c)(2)(C), in which case the require-  
20 ments of this paragraph shall apply regardless of whether the minimum  
21 deductible under 26 USC 223 has been satisfied.

22 § 3. Section 4303 of the insurance law is amended by adding a new  
23 subsection (tt) to read as follows:

24 (tt) Every contract issued by a medical expense indemnity corporation,  
25 hospital service corporation, or health service corporation that  
26 provides coverage for prescription drugs shall apply any third-party  
27 payments, financial assistance, discount, voucher or other price  
28 reduction instrument for out-of-pocket expenses made on behalf of an  
29 insured individual for the cost of prescription drugs to the insured's  
30 deductible, copayment, coinsurance, out-of-pocket maximum, or any other  
31 cost-sharing requirement when calculating such insured individual's  
32 overall contribution to any out-of-pocket maximum or any cost-sharing  
33 requirement. If under federal law, application of this requirement would  
34 result in health savings account ineligibility under 26 USC 223, this  
35 requirement shall apply for health savings account-qualified high deduc-  
36 tible health plans with respect to the deductible of such a plan after  
37 the enrollee has satisfied the minimum deductible under 26 USC 223,  
38 except for with respect to items or services that are preventive care  
39 pursuant to 26 USC 223(c)(2)(C), in which case the requirements of this  
40 paragraph shall apply regardless of whether the minimum deductible under  
41 26 USC 223 has been satisfied.

42 § 4. This act shall take effect on the first of January next succeed-  
43 ing the date on which it shall have become a law and shall apply to all  
44 policies and contracts issued, renewed, modified, altered or amended on  
45 or after such date.